

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

* * * * *		CRIMINAL ACTION
UNITED STATES OF AMERICA	*	11-082S
	*	
VS.	*	SEPTEMBER 11, 2014
	*	
DONALD J. JONES, III	*	
* * * * *	*	PROVIDENCE, RI

HEARD BEFORE THE HONORABLE WILLIAM E. SMITH
DISTRICT JUDGE
(Resentencing)

APPEARANCES:

FOR THE GOVERNMENT:	STEPHEN G. DAMBRUCH, AUSA U.S. Attorney's Office 50 Kennedy Plaza Providence, RI 02903
FOR THE DEFENDANT:	CHARLES A. TAMULEVIZ, ESQ. Darrow Everett, LLP One Turks Head Place Suite 1200 Providence, RI 02903
Court Reporter:	Anne M. Clayton, RPR One Exchange Terrace Providence, RI 02903

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1 11 SEPTEMBER 2014 -- 2:30 P.M.

2 THE COURT: Good afternoon. This is the matter
3 of the United States versus Donald Jones. We're here
4 for a resentencing this afternoon.

5 Let's begin by having counsel identify
6 themselves for the record, please.

7 MR. DAMBRUCH: Your Honor, Stephen Dambruch,
8 First Assistant United States Attorney, for the
9 Government.

10 MR. TAMULEVIZ: Good afternoon, your Honor.
11 Charles Tamuleviz on behalf of Mr. Jones.

12 THE COURT: All right. Thank you.

13 As everyone here knows, this matter was heard by
14 the First Circuit Court of Appeals. They issued their
15 opinion on April 30th, 2014, upholding the Defendant's
16 conviction but noting that an error had been made in
17 the imposition of sentence and remanding the case for
18 resentencing consistent with the Court's opinion.

19 So I've subsequently received a revised
20 Presentence Investigation Report from the Office of
21 Probation, which is dated June 16th, 2014. And
22 Mr. Tamuleviz, if you could just confirm that you've
23 received that and that you've reviewed it with your
24 client.

25 MR. TAMULEVIZ: I did receive it, your Honor,

1 and I have reviewed it with Mr. Jones.

2 THE COURT: Okay. Thank you.

3 Now, I understand you had a couple of objections
4 to the presentence report; is that right?

5 MR. TAMULEVIZ: Yes. Mr. Jones wishes to assert
6 the objections set forth in the pleading I filed
7 yesterday.

8 THE COURT: Okay. Do you want to be heard any
9 further on those?

10 MR. TAMULEVIZ: Your Honor, I think I probably
11 should make a brief argument on that.

12 THE COURT: Go ahead.

13 MR. TAMULEVIZ: Thank you.

14 It appears one of the objections -- I'm not
15 going to do it in order, Judge, but one of the
16 objections relates to the imposition of restitution in
17 this case; but as I read the Government's response,
18 they have not received any victim impact statements
19 that would allow the Court to impose restitution in
20 this -- at this resentencing so I think that one sort
21 of speaks for itself.

22 With regard to the objection to the inclusion of
23 links that was used in computing the total number of
24 images for the guidelines computation, again, as I read
25 the Government's response, they have accounted for or

1 taken out the number of links and the math still brings
2 you to in excess of 5,000 images but, nevertheless,
3 significantly less than the almost 8,000 that we
4 started with.

5 Mr. Jones does wish to assert his objection to
6 the enhancements that are set forth in paragraphs 26,
7 33 and 41, all of which are premised upon the age of
8 the purported victim; and as the Court recalls in this
9 case, the purported victim was a fictitious individual.
10 There was no real victim. And Mr. Jones objects to the
11 inclusion of those enhancements on that basis.

12 He also wishes to assert an argument that there
13 was sentencing guideline manipulation inasmuch as those
14 three enhancements I just mentioned were premised upon
15 the age of the purported victim and that age was
16 selected by the undercover agent during the course of
17 the investigation.

18 And I believe, your Honor, that I've just
19 covered the objections that have been asserted.

20 And as the Court, I believe, is aware from what
21 I filed yesterday, Mr. Jones does reassert the
22 objections that he put forth at the initial sentencing
23 in this case other than the objections that related to
24 the imposition of a life sentence, which is now not
25 relevant.

1 THE COURT: But those were all heard by the
2 Court of Appeals, right?

3 MR. TAMULEVIZ: I'm not sure if all of them were
4 raised to the Court of Appeals.

5 THE COURT: If they weren't raised before the
6 Court of Appeals, then they're waived, aren't they?

7 MR. TAMULEVIZ: Well, your Honor, I think
8 inasmuch as this is a resentencing, they need to be --
9 if they're going to be raised they need to be re-raised
10 again here. I don't think he's waived them in any way
11 procedurally.

12 THE COURT: What are they then? Let's get all
13 of your objections out on the table so that I can rule
14 on them. I don't want to be in a position where you're
15 just saying that all previously raised objections are
16 made and then I don't make a ruling on them.

17 MR. TAMULEVIZ: I appreciate that, your Honor.

18 The first objection that was raised at the
19 initial sentencing in Mr. Jones' initial sentencing
20 memorandum was essentially that because he never
21 directly communicated over the Internet with the victim
22 that the adjustments or enhancements that he received
23 regarding the use of the Internet, and I believe those
24 are in paragraphs 16, 23 and 32 -- I'm sorry. I'm
25 referring to the numbers in the initial presentence

1 report, Judge.

2 THE COURT: Well, those aren't the --

3 MR. TAMULEVIZ: There's paragraph 25 in the
4 revised presentence report.

5 THE COURT: I believe you may be looking at
6 paragraphs 18, 25 and --

7 MR. TAMULEVIZ: 33?

8 THE COURT: -- 33.

9 MR. TAMULEVIZ: 33.

10 THE COURT: Okay.

11 MR. TAMULEVIZ: Actually, it would be 34 on the
12 last one, Judge. 34 is the one that references the use
13 of the Internet.

14 THE COURT: You're right. 34.

15 MR. TAMULEVIZ: So as to those three
16 enhancements, Mr. Jones asserts an objection inasmuch
17 as he never directly communicated with the purported
18 victim through the use of the Internet.

19 THE COURT: All right.

20 MR. TAMULEVIZ: The remainder of his objections
21 at the initial sentencing dealt with the imposition of
22 the life sentence, Judge.

23 THE COURT: You mean the mandatory life?

24 MR. TAMULEVIZ: Yes.

25 THE COURT: All right. So that is what was

1 resolved by the Court of Appeals, so those issues are
2 off the table.

3 MR. TAMULEVIZ: Those are, yes.

4 THE COURT: All right. Thank you.

5 I'll hear from Mr. Dambruch.

6 MR. DAMBRUCH: Your Honor, as to the objections
7 newly raised yesterday by defense counsel, I did file a
8 written response and I would rest upon that response to
9 those objections.

10 As to the objection renewed today with regard to
11 the enhancement relating to the Defendant's
12 communication or use of the Internet, as I had argued
13 at the initial sentencing and I would reassert here
14 today, the guidelines make it clear that that
15 particular provision applies not only to communication
16 directly with the minor victim but also to a
17 communication with a person who exercises custody, care
18 or supervisory control over the minor, and that is set
19 forth in Section 2A3.1 Comment Note 4(B), which makes
20 it clear that communication with a person who at least
21 purportedly exercises custody, care or supervisory
22 control is sufficient. There need not be direct
23 communication with the minor victim.

24 Also, your Honor, as I've reviewed in my
25 objection filed yesterday, in my response filed

1 yesterday, I had previously covered in my objection to
2 the Defendant's initial filings back at the time of the
3 original sentencing, the guidelines also make it clear
4 that when they use the term "minor" they are including
5 both real and fictitious individuals in that particular
6 definition.

7 So for those reasons, your Honor, I would ask
8 the Court to overrule each and every one of the
9 Defendant's objections posed today.

10 THE COURT: Okay. Thank you, Mr. Dambruch.

11 All right. Let me deal with these objections.
12 I'll start with objections previously raised. I don't
13 know if any of these objections are waived or not by
14 virtue of the appeal, but I'm going to deal with them
15 as if they're properly before me.

16 The previously raised objection dealing with the
17 use of the Internet to entice or to coerce a minor to
18 engage in prohibited sexual conduct, Mr. Dambruch is
19 correct in citing the guidelines Section 2A3.1 in
20 Comment 4(B), which states as follows: Subsection
21 (b)(6)(B), which is the relevant subsection, is
22 intended to apply only to the use of a computer or an
23 interactive computer service to communicate directly
24 with a minor or with a person who exercises custody,
25 care or supervisory control of the minor.

1 This would appear to fall directly into the
2 language of Comment 4(B). So that objection is
3 overruled. And that objection pertains to the
4 enhancements at paragraphs 18, 25 and 34 of the revised
5 presentence report.

6 Now, with respect to the new objections filed
7 yesterday by the Defendant, I'll go through them one at
8 a time.

9 The first objection relates to paragraph number
10 44 of the presentence report, which provides for a
11 five-level upward adjustment because the subject
12 offense involved more than 600 images of child
13 pornography. As the Government sets forth in its
14 objection, and this is really irrespective, I think, of
15 whether the links were used or not, the evidence
16 indicated that the Defendant possessed or transmitted a
17 total of 76 videos and 112 images. There are also
18 links to 28 additional videos. All of that would
19 amount to 5700 images. Even without the links, the
20 total number of images would be, according to the
21 Government's memo, 5,812 images.

22 Now, do you disagree with that calculation,
23 Mr. Tamuleviz?

24 MR. TAMULEVIZ: I do not disagree with the math,
25 your Honor.

1 THE COURT: All right. So if the calculation is
2 correct and there doesn't appear to be any dispute
3 about it, that would greatly exceed the number of
4 images necessary to trigger the five-point adjustment.
5 So that objection is denied.

6 Then there is the objection with respect to
7 paragraph numbers 26, 33 and 41. This is the
8 Defendant's argument that the victim, the minor victim
9 in the case was not an actual person but was
10 fictitious, and that the choice of the victim's age
11 having been made by the Government agent amounts to
12 sentencing manipulation. Each of these objections is
13 denied. The Government correctly points out in its
14 objection that whether or not the minor was a real
15 person is irrelevant for purposes of determining
16 whether the guideline enhancements in those paragraphs
17 apply. The guideline Sections 2G1.3 Comment Note 1 and
18 then 2A3.1 all indicate that the victim may be real or
19 fictitious. And the claim that the choice of the age
20 by the agent is sentencing manipulation is also
21 inappropriate. The Government points out the case of
22 the United States versus Barbour: To establish a
23 manipulation claim, the defendant must show the agents
24 overpowered the free will of the defendant and caused
25 him to commit a more serious offense than he was

1 predisposed to commit.

2 The evidence in this case was overwhelming with
3 respect to the Defendant's desire to commit this crime.
4 He was given multiple opportunities to withdraw from
5 the crime and chose to continue forward. So there's no
6 evidence that the Defendant's free will was overpowered
7 in this case. So the sentencing manipulation objection
8 is denied.

9 I believe that covers all of the Defendant's
10 objections, doesn't it?

11 MR. TAMULEVIZ: Your Honor, except as to the
12 restitution issue.

13 THE COURT: Oh, okay.

14 Well, is the Government pursuing a restitution
15 order?

16 MR. DAMBRUCH: Your Honor, I checked both with
17 our victim witness person, Gail James, and also with
18 Ms. Mattias from Probation. It's my understanding that
19 no victim has submitted a request for restitution at
20 this point in time.

21 THE COURT: All right. Well, given that, I
22 don't think I'll be ordering a restitution amount.

23 MR. TAMULEVIZ: Very well.

24 THE COURT: All right. So all the objections
25 have been dealt with so I'll now set forth on the

1 record the advisory guideline range as set forth in the
2 new presentence report.

3 So we begin with Count I, the base offense
4 level, this is the criminal sexual abuse, attempt to
5 commit criminal sexual abuse under 2A3.1. The base
6 offense level in this case is 38. There's a two-point
7 upward adjustment because the Defendant used the
8 computer to attempt to entice, coerce a minor to engage
9 in the prohibited conduct. That yields an adjusted
10 offense level of 40.

11 On Count II, promoting a commercial sex act or
12 prohibited sexual conduct with a minor, transportation,
13 et cetera, in this case travel to engage in commercial
14 sex act or prohibited sexual conduct with a minor,
15 according to Subsection A3, the base offense level is
16 28 because the Defendant was convicted under 18 U.S.C.
17 Section 2422(b). There's a two-point upward adjustment
18 because the Defendant used a computer in the commission
19 of this crime. There's an eight-point upward
20 adjustment because the offense involved a minor who had
21 not yet attained the age of 12. That places the
22 Defendant in -- gives the Defendant an adjusted offense
23 level of 38.

24 Count III, the base offense level is a level 30.
25 This is Title 18, U.S.C. 2423(b) and (f). There's a

1 four-point upward adjustment because the victim had not
2 yet attained the age of 12 years old. There is a
3 two-point upward adjustment because the Defendant used
4 the computer, and that yields an adjusted offense level
5 of 36.

6 Group 2 -- those first three counts are Group 1
7 under the grouping rules. Group 2 comprised of Counts
8 IV and V. Counts IV and V are -- Count IV is the
9 transportation of child pornography. Count V is the
10 possession of child pornography.

11 Base offense level on Counts IV and V when
12 they're grouped together under Section 3D1.2(d) is a
13 level 22; a two-point upward adjustment because the
14 child pornography involved material or involved
15 prepubescent minors under the age of 12 years old.

16 There's a five-point upward adjustment because
17 Defendant engaged in a pattern of activity involving
18 sexual abuse or exploitation of a minor. There's a
19 two-point upward adjustment because the offense
20 involved the use of a computer. There's a five-point
21 upward adjustment because the offense involved more
22 than 600 images. And that results in an adjusted
23 offense level on Counts IV and V, Group 2, of 36.

24 Finally Count VI, which is an aggravated felony
25 by a person required to register as a sex offender, the

1 guidelines provide Section 2A3.6 according to
2 Subsection (b), if the Defendant was convicted under 18
3 U.S.C. Section 2260A, then the guideline sentence is
4 the term of imprisonment required by the statute. The
5 statute in this case requires a term of imprisonment of
6 ten years and that sentence is required to be imposed
7 consecutive to any sentence imposed for an offense
8 enumerated under that section.

9 So the net of all this is set forth in
10 paragraphs 51 and 52. 51 sets forth the combined
11 offense level and describes the rules with respect to
12 that. Counts I, II and III fall under this rule and
13 yield a combined offense level of 41.

14 Paragraph 52 relates to the Defendant as a
15 repeat and dangerous sex offender against minors and
16 states as follows: According to Section 4B1.5, in any
17 case in which the defendant's offense of conviction is
18 a covered sex crime, Section 4B1.1, career offender
19 does not apply and the defendant committed the instant
20 offense of conviction subsequent to obtaining at least
21 one sex offense condition, the offense level should be
22 the greater of the offense level determined under
23 Chapters 2 and 3 are the offense level determined by
24 the table at this section.

25 The Defendant's offense level determined under

1 Chapters 2 and 3 yielded a higher offense level, and so
2 the offense level is level 41.

3 There's obviously no adjustment for acceptance
4 of responsibility because this matter went to trial so
5 the total offense level is 41.

6 The Defendant's criminal history is summarized
7 in paragraph 61 of the presentence report. He has 9
8 criminal history points. Two points are added because
9 he committed this offense while under a criminal
10 justice sentence. That gives him 9 criminal history
11 points and establishes a criminal history category
12 of 4.

13 Section 4B1.5(a)(2) states the criminal history
14 category shall be 5 if that is greater than determined
15 under Chapter 4.

16 So this very complicated guideline calculation
17 results in a total offense level of 41 and a criminal
18 history offense category of 5. And as such, the
19 Defendant's advisory guideline range is 360 months to
20 life in prison plus 10 years consecutive on Count VI.

21 All right. I'll hear first from the Government
22 with respect to the appropriate sentence.

23 MR. DAMBRUCH: Thank you, your Honor.

24 THE COURT: I suppose before you start I should
25 note that in addition to the 10-year mandatory sentence

1 on Count VI, as I understand it, there is a mandatory
2 minimum term on Count I of no less than 30 years and a
3 minimum on Count II of not less than 10 years.

4 MR. DAMBRUCH: Yes, your Honor. I believe also
5 on Counts IV and V there are minimum sentences as well
6 of 15 and 10 years as I read the presentence report.

7 THE COURT: I think that's right.

8 MR. DAMBRUCH: And Judge, just for
9 clarification, it's my understanding that Count VI was
10 not sent back for resentencing.

11 THE COURT: Well, I suppose that's right. It
12 does say that. So I think it's six of one, half dozen
13 of the other. The previously imposed sentence of ten
14 years on Count VI still stands.

15 MR. DAMBRUCH: Yes, your Honor.

16 THE COURT: So whatever sentence I impose, that
17 ten-year sentence is consecutive to the sentence I
18 impose today.

19 MR. DAMBRUCH: Understood, your Honor.

20 THE COURT: Okay.

21 MR. DAMBRUCH: Your Honor, I reviewed the
22 sentencing transcript from the last time we were here,
23 and obviously because of the understanding that the
24 life sentence was mandatory, there was little or no
25 argument with regard to what an appropriate sentence

1 for this Defendant would be.

2 As I looked over the materials, certainly I
3 can't say that a life sentence is inappropriate, but
4 considering the travel of this case, I don't today feel
5 comfortable re-recommending a life sentence. However,
6 I do believe that a significant sentence is warranted
7 not only because the guideline range is 360 months to
8 life, but because of the nature of the conduct involved
9 and the character and history of the person before the
10 Court.

11 Coming back into this courtroom once again in
12 the presence of Mr. Jones, it's hard to get out of my
13 head the revulsion and disgust that I felt as we sat
14 here day after day and listened to an individual
15 describe in excruciating and disgusting detail the
16 plans he had for a nine-year-old little girl. But
17 getting beyond just the disgust and revulsion that
18 those conversations brought to mind, I guess the other
19 and probably more longstanding reaction to those
20 conversations and all of the other evidence is
21 chilling. It's chilling to know that in this
22 particular case before you now, your Honor, we have a
23 true child predator, a committed predator, who
24 throughout his adult life, certainly since his initial
25 conviction of aggravated sexual assault in 1993, has

1 made it his mission to prey upon young children; a
2 person who the system has tried to deter from that
3 conduct by sentencing him to ten years of
4 incarceration, then releasing him on parole which he
5 violated twice, sending him back to prison again for
6 various other child sex-related offenses, whether it's
7 possession of child pornography. He violated probation
8 in 2006 again. And then here, fortunately, was
9 detected by the Postal Inspection Service and Homeland
10 Security investigations before he was able to victimize
11 yet another child.

12 As difficult as it is to acknowledge because our
13 system is really built upon multiple prongs,
14 punishment, deterrence and rehabilitation, with regard
15 to this particular Defendant, Judge, I think
16 rehabilitation is out the window. This Defendant is
17 simply beyond rehabilitation. I say that based upon
18 the evidence in this case and the Defendant's criminal
19 history.

20 With regard to punishment, he should be
21 punished. He engaged in abhorrent behavior that
22 deserves the most serious punishment. But it's the
23 last prong of the sentencing consideration that I'd
24 like to focus on, and that's deterrence. Because in
25 this particular case there's general deterrence and,

1 obviously, a long sentence will hopefully deter others
2 from engaging in similar conduct, but it's more the
3 specific deterrence of Mr. Jones that forms the basis
4 of my recommendation, and I would urge the Court to
5 inform the basis of the Court accepting that
6 recommendation in imposing the sentence that's
7 recommended by the Government.

8 And that simply is that, Judge, the only way to
9 prevent Mr. Jones from victimizing another child is to
10 lock him up and keep him in prison where he can't have
11 access to another child because this Defendant's
12 history shows that whenever he walks out of those
13 prison doors, whenever a child is available to him
14 whether it's working through a church group or he's in
15 a home with children or he's on the Internet attempting
16 to convince a parent to allow him access to their young
17 child, no child is actually safe from this Defendant.

18 Based upon all that, your Honor, I'm
19 recommending a sentence as to Count I of 45 years
20 incarceration. As to Count II, 45 years incarceration.
21 As to Count III, 30 years incarceration, which is the
22 maximum statutory penalty. As to Count IV, 40 years
23 incarceration, which again is the maximum statutory
24 penalty; and as to Count V, 20 years incarceration,
25 which is the maximum statutory penalty and obviously

1 the sentence previously imposed in Count VI, the
2 ten-year sentence run consecutive.

3 Your Honor, I would argue to the Court that
4 sentence is within the guideline range; and secondly,
5 it's warranted based upon the facts of this case and
6 the Defendant's criminal history. Thank you.

7 THE COURT: Your argument would be that those
8 sentences on Counts I through V should be imposed
9 concurrently.

10 MR. DAMBRUCH: That's correct, your Honor. I
11 apologize for not clarifying that.

12 THE COURT: That's fine.

13 Now, just a question with respect to supervised
14 release. Obviously, if I adopt your recommendation or
15 something close to it, this may be a moot point given
16 the Defendant's age, but do you believe it would be
17 necessary for me to impose all the usual conditions
18 that I impose on sex offenders during a term of
19 supervised release?

20 MR. DAMBRUCH: I do, your Honor. And I say that
21 only because we can't predict the future and we don't
22 know if some time down the line parole may be
23 reinstituted or the Defendant may be granted early
24 release because of a medical condition by a warden. So
25 there's a lot of things that could happen. I'm not

1 saying they will happen, but because we can't predict
2 that I would urge the Court to impose actually a term
3 of life supervised release with the appropriate
4 conditions attached thereto.

5 THE COURT: Thank you.

6 Mr. Tamuleviz.

7 MR. TAMULEVIZ: Your Honor, given where the
8 statutory framework puts us, by my calculation the
9 minimum amount of time that the Court can sentence
10 Mr. Jones to would be -- would work out to a total of
11 40 years, the 30-year mandatory minimum on Count I,
12 with Counts II through V being ordered to run
13 consecutive to that, and then Count VI with the
14 mandatory ten-year consecutive. So at a minimum, what
15 we're talking about is 40 years. And I think when you
16 consider the factors that even Mr. Dambruch discussed
17 earlier, given Mr. Jones' age, he's 50 years old now,
18 in 40 years he's going to be 90, that anything beyond
19 that, beyond that minimum really comes down to
20 overkill. He would be 90 years old when he gets out if
21 you give him the minimum penalties that you can impose
22 here.

23 And Mr. Jones is suggesting just that, that you
24 impose the sentence on Count I of 30 years and then on
25 the Counts II through V, whatever you choose, anything

1 up to 30 years but -- and that's permissible by
2 statute, but run them all concurrently as the
3 Government recommended, and Count VI is ten years
4 mandatory consecutive on top of the 30 for Count I.
5 That's 40 years.

6 And in this case, your Honor, I would ask you to
7 consider that there was no real victim here, no live
8 victim. There was no touching by the Defendant. And
9 you heard his explanation during the trial from his
10 interview that was recorded. Forty years for that is
11 more than sufficient to accomplish the goals set forth
12 in Section 3553, Judge. He'll be 90 years old when
13 he's done with it.

14 So for those reasons, Judge, that's our
15 recommendation.

16 Mr. Jones did want me to state specifically on
17 the record that by making that recommendation he is in
18 no way waiving any rights he may have to appeal any
19 sentencing issues related to the case.

20 THE COURT: Thank you, Mr. Tamuleviz.

21 Mr. Jones, do you wish to say anything before I
22 impose sentence?

23 THE DEFENDANT: Your Honor, I know that this is
24 a bad case. And I know -- I know I did some things
25 that were wrong. Okay?

1 I do want to put for the record, okay, that
2 through all my conversations that I had with the agent
3 I never made plans to do anything. He made plans and I
4 agreed with him. Okay? All the stories that I told
5 him were made up, which there was nobody could find any
6 victims anywhere because I made them up.

7 He's talking about a church group. I've never
8 touched anybody. I had one incident where I touched
9 somebody in 1991. I have never even thought about it.
10 I didn't lie about it then. I went to trial and told
11 the truth. I touched somebody. They offered me a
12 three-year plea bargain. I could have took it, but I
13 wanted to tell the truth. I did touch somebody. It
14 wasn't in a sexual context. When I did it, I did it.
15 I knew it was wrong and I knew that it was an accident,
16 but people don't understand accidents. So I went in
17 the Army, and I left. I was gone. I got arrested
18 while I was in the Army.

19 I never tried to run from anything I did. Okay?
20 Never tried to give excuses for anything I've done.
21 Whatever I've done, I've done it. All I can say is
22 that even from the beginning of this I never intended
23 to harm or touch anyone. My explanation on the
24 original audio from the police station I thought was
25 clear enough on that, but I guess not. Whatever the

1 Court gives, I have to accept it.

2 THE COURT: Okay. Thank you, Mr. Jones. You
3 can remain standing.

4 You have obviously convinced yourself of your
5 innocence and of your righteousness here, but the
6 simple fact is I don't believe it. And I think the
7 evidence in the case overwhelmingly proves that what
8 you're saying to me here today is not true.

9 You can talk yourself into anything that you
10 want to, but the evidence was just overwhelming. It
11 was clear to me what you were coming to Rhode Island to
12 do and what you hoped to do, and the agent gave you the
13 opportunity to do it and you took that opportunity.

14 I don't know whether what you talked about in
15 those phone conversations about what you had done
16 previously was true or not. You say now that none of
17 it was true; you were making it up. I just don't
18 believe you, and I think Mr. Dambruch has correctly
19 summed it up. I think you're a child predator. I
20 think if you're given the opportunity to be free, you
21 will pursue children the way you have in the past, and
22 I don't think there's really any solution to the
23 problem that you present other than a very long prison
24 sentence. And as we know, that's required by the
25 statute.

1 So I think all of the sentencing factors in this
2 case argue in favor of or require a very substantial
3 prison sentence. Now, the question really is do I
4 sentence you to life in prison or not. I thought about
5 this and I tend to agree with what Mr. Dambruch
6 suggests and really in a way what Mr. Tamuleviz is
7 suggesting, that a sentence of life imprisonment, which
8 of course in the federal system means life in prison,
9 is not called for. Whether that's any different as a
10 practical matter than what I'm going to impose or what
11 the statute requires, it may not be, but I think these
12 differences in terms of a sentence of a specific number
13 of years versus a sentence of life, they are important.

14 So I'm not going to impose life imprisonment.
15 I'm going to give you a term of incarceration and the
16 term that I'm going to give you is 40 years. That will
17 be in addition to the ten years on Count VI that is not
18 before me in this sentencing hearing.

19 I think a term of 40 years with a total term of
20 50 years is the appropriate term that's called for by
21 the nature of the crimes that you were convicted of.
22 It takes into consideration your nature and
23 circumstances as a defendant. It provides for, very
24 importantly, protection of the public. Probably more
25 important than any other factor under Section 3553 is

1 protection of the public and deterrence of you as an
2 individual offender from committing a crime like this
3 or preying on children in the future. It also serves
4 the goal, sentencing goal of general deterrence. And
5 it is sufficient but not greater than necessary to
6 achieve all of those goals.

7 So that's the sentence that I am going to
8 impose. I'm further going to impose a variety of
9 conditions on your term of supervised release, which
10 will be life.

11 As we have previously discussed, there's not
12 going to be any restitution in this case, nor any fine.

13 So in the matter of the United States versus
14 Donald Jones, III, the Defendant is hereby sentenced to
15 a term of incarceration of 40 years on Counts I and II,
16 30 years on Count III, 40 years on Count IV, 20 years
17 on Count V, all concurrent with each other.

18 This, of course, is in addition to the ten years
19 previously imposed on Count VI for a total term of
20 incarceration in both of 50 years.

21 Further, the Defendant, following his term of
22 incarceration, shall serve a term of supervised release
23 of life. There will be no restitution and there is no
24 fine in this case. There is a special assessment of
25 \$600.

1 Now, in addition to the standard conditions of
2 supervised release, the following special conditions
3 will be imposed: The Defendant shall comply with all
4 applicable federal and state laws regarding the
5 registration of sex offenders in his state of
6 residence, employment and school attendance and shall
7 provide for verification of compliance with this
8 requirement to the probation officer.

9 Number two, the Defendant shall participate in a
10 sex offender-specific treatment program as directed by
11 the probation officer and shall contribute to the cost
12 of that treatment based on his ability to pay as
13 determined by the Probation Office.

14 Third, the Defendant shall participate in
15 testing in the form of polygraphs or other methodology
16 that are approved by the Court to ensure compliance of
17 the conditions of his treatment and supervised release
18 and shall contribute to the cost of that testing based
19 on his ability to pay.

20 Fourth, the Defendant shall permit a probation
21 officer who may be accompanied by either local, state
22 or federal law enforcement authorities upon reasonable
23 suspicion of a violation of his conditions of
24 supervision to conduct a search of the Defendant's
25 residence, automobile, workplace and computer and/or

1 other electronic communication or data storage devices
2 or media.

3 Fifth, the Defendant must submit to unannounced
4 examination of his computer or other electronic
5 equipment by the probation officer who may be
6 accompanied by either local, state or federal law
7 enforcement authorities, which may include retrieval
8 and copying of all data from the computer to ensure
9 compliance with the condition.

10 In addition, the Defendant must consent to the
11 removal of such equipment for the purpose of conducting
12 a more thorough investigation and must allow at the
13 discretion of the probation officer the installation on
14 the Defendant's computer of any hardware or software
15 system necessary to monitor his or her computer use.

16 Number six, the Defendant shall have no contact
17 with any child under the age of 18 without the presence
18 of an adult who is aware of the Defendant's criminal
19 history and who is approved in advance by the probation
20 officer.

21 Seventh, the Defendant shall not loiter in areas
22 where children congregate. These areas include but are
23 not limited to schools, daycare centers, playgrounds,
24 arcades, amusement parks, recreation parks and youth
25 sporting events.

1 Number eight, the Defendant shall not be
2 employed in any occupation, business or profession or
3 participate in any volunteer activity where there is
4 access to children under the age of 18 unless he is
5 authorized in advance by the probation officer.

6 Number nine, the Defendant shall live at a
7 residence approved by the Probation Office and not
8 reside with anyone under the age of 18 unless approved
9 in advance by the Probation Office.

10 Number ten, the Defendant shall not use,
11 possess, procure or otherwise obtain any electronic
12 device that can be linked to any computer networks,
13 bulletin boards, Internet service providers or exchange
14 formats involving computers.

15 And finally, the Defendant shall not maintain a
16 post office box unless approved by the probation
17 officer, and he shall report all mailing addresses used
18 by him and immediately report any changes. In
19 addition, the Defendant shall not receive any
20 prohibited items by mail at any of these locations.

21 All right. I think I've previously stated
22 there's no restitution and no fine. There's a special
23 assessment.

24 I do need to advise you, Mr. Jones, that you
25 have the right to appeal the sentence I've just imposed

1 on you. If you wish to appeal, you need to be aware
2 that you have to file your appeal within 14 days of the
3 entry of the judgment. Mr. Tamuleviz can assist you
4 with that if you wish.

5 Is there anything further?

6 MR. DAMBRUCH: Not that the Government is aware
7 of.

8 THE COURT: Is there anything further,
9 Mr. Tamuleviz?

10 MR. TAMULEVIZ: No, sir.

11 THE COURT: Then we'll be in recess.

12 (Court concluded at 3:20 p.m.)
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C E R T I F I C A T I O N

I, Anne M. Clayton, RPR, do hereby certify
that the foregoing pages are a true and accurate
transcription of my stenographic notes in the
above-entitled case.

/s/ Anne M. Clayton

Anne M. Clayton, RPR

December 15, 2014

Date